

Scott A. Edelman (SE 5247)  
Sander Bak (SB 2263)  
Kylie Davidson (KD 0502)  
Michael Shepherd (MS 1313)  
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**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

In re REFCO CAPITAL MARKETS, LTD.  
BROKERAGE CUSTOMER SECURITIES  
LITIGATION

06 Civ. 643 (GEL)

VR GLOBAL PARTNERS, L.P., et al,  
Plaintiffs,

07 Civ. 8686 (GEL)

- against -

PHILLIP R. BENNETT, et al,  
Defendants.

07 Civ. 8688 (GEL)

CAPITAL MANAGEMENT SELECT FUND  
LTD., et al,  
Plaintiffs,

- against -

PHILLIP R. BENNETT, et al,  
Defendants.

**PLAINTIFFS' MOTION FOR LEAVE TO FILE DECLARATIONS IN SUPPORT OF  
PLAINTIFFS' MOTION FOR RECONSIDERATION**

Pursuant to Local Rule 6.3, Plaintiffs in the above-captioned actions file this Motion for Leave to File Declarations in Support of Plaintiffs' Motion for Reconsideration (the "Motion") of the Court's August 28, 2008 Opinion and Order (the "Opinion"), and respectfully represent as follows:

1. The Court dismissed Plaintiffs' complaints without leave to replead.
2. The Court noted in the Opinion that "[w]ithout any idea of what additional facts plaintiffs would allege if permitted to replead, this Court simply cannot determine whether any amendment to their pleadings would be in the interest of justice." (Opinion at 43.)
3. Plaintiffs are contemporaneously filing a Notice of Motion for Reconsideration of the Court's Opinion and an accompanying Memorandum of Law. In addition, Plaintiffs seek to file herewith the Declarations of Sander Bak, with attached exhibits thereto, Marc S. Kirschner and David Galfus (collectively, the "Declarations").
4. In their papers, Plaintiffs identify the facts they would plead if the Court permits them to amend their complaints. To illustrate the support for the additional facts that Plaintiffs would allege, Plaintiffs seek to submit with the Motion the attached Declarations.
6. Plaintiffs respectfully ask the Court for leave to file the attached Declarations.

Dated: New York, NY  
September 12, 2008

MILBANK, TWEED, HADLEY & McCLOY LLP

/s/ Scott A. Edelman

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/s/ Mark A. Strauss

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